

Minutes

Bar Harbor Town Council

July 15, 2008

- I. **CALL TO ORDER** – 7:00 P.M. – In attendance were Councilors: Ruth Eveland, Robert Garland, Paul Paradis, Sandy McFarland, Julia Schloss, Greg Veilleux, Robert Jordan, Jr.; and Town Manager Dana Reed.

A. **Excused Absence(s)** – (*There were none*)

II. **APPROVAL OF MINUTES**

A. *June 11, 2008 – Regular Meeting*

B. *June 17, 2008 – Special Meeting*

C. *June 17, 2008 – Regular Meeting*

D. *July 1, 2008 – Special Meeting*

Mr. Paradis, with second by Mr. Veilleux, moved to approve the minutes of the June 11, 2008 regular meeting, the June 17, 2008 special and regular meetings, and the July 1, 2008 special meeting as presented. Motion passed 7-0.

- III. **ADOPTION OF AGENDA** – Mr. Paradis, with second by Ms. Schloss, moved to adopt the agenda as presented. Motion passed 7-0.

IV. **FINANCIAL STATEMENTS:** (*Delayed due to the year-end closing of accounts*)

V. **PUBLIC HEARINGS:**

A. **Special Amusement Permit Renewals:**

1. **GEDDY'S**, 19 Main Street, submitted by GEDDY'S Pub-Bar Harbor, Arthur B. Davis, for a Class 3ad, three or more musicians with mechanical amplification and dancing. – There being no comments, Mr. Paradis, with second by Ms. Schloss, moved to approve the special amusement permit renewal for Geddy's as requested. Motion passed 7-0.
2. **Bubba's**, 30 Cottage Street, submitted by Franke Russell for a Class 1a, single musician with mechanical amplification. – There being no comments, Mr. Paradis, with second by Ms. Schloss, moved to approve the special amusement permit renewal for Bubba's as requested. Motion passed 7-0.
3. **Criterion Theatre and Arts Center**, 35 Cottage Street, submitted by Robert Jordan, Jr. for a Class 4, any other type of entertainment, as provided by 28A MRSA 1054.1.C. – Councilor Jordan requested recusal since he was the applicant. Mr. Paradis, with second by Ms. Schloss, moved that Mr. Jordan has a conflict of interest on this item and that Council recuses him. Motion passed 6-0-1(Recused: Mr.

Jordan). There being no further comments, Mr. Paradis, with second by Ms. Schloss, moved to approve the special amusement permit renewal for Criterion Theatre and Arts Center as requested. Motion passed 6-0-1 (Nay: Mr. Jordan).

B. November 4th Special Town Meeting: Land Use Ordinance Amendments – *Public comments on and possible signing of the following Orders:*

- 1. Planning Board Procedure** – Mr. Paradis, with second by Mr. Veilleux, moved to adopt and sign the Council Order for the Planning Board Procedure Ordinance. Motion passed 7-0.

Planning Board Procedure

An Amendment to make changes to the Planning Board's site plan review procedure.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE V Construction and Definitions

§ 125-61. Review Procedure.

• • • •

B. Submissions Generally.

• • • •

- (2) Submissions by opponents and others. At least ~~seven~~ two days prior to any public hearing, any other person wishing to present documentary evidence to the Planning Board shall provide to the Planning Department copies of all such evidence in form and quantity described in Subsection B(1) except that each submission shall be conspicuously labeled with that person's surname followed by "Exhibit 1," "Exhibit 2," and so on, in consecutive fashion. At such time as a person provides such documentary evidence to the Planning Board, he/she shall also provide one copy of such evidence to the applicant or the applicant's representative.

(3) Submission deadlines.

- (a) Under no circumstances shall submissions be accepted from any party or considered by the Planning Board after an application has been deemed complete and a hearing has commenced unless:

- [1] All parties agree to the submission;
- [2] The Planning Board has accepted submissions from the applicant on the same day on which the hearing is scheduled, in which case any other persons shall be given seven days to present any documentary evidence in response to such submissions; or
- [3] The Planning Board has, pursuant to § 125-66Y, requested the submission of additional information, in which case all parties shall be allowed to submit evidence relating to the Board's request.

- (b) For purposes of this section, a minor modification or clarification of a previous submission shall not constitute a new submission. Nothing in this section shall be construed to prohibit testimony relating to an application's compliance with review standards, notwithstanding whether there is a submission on the issue.

- (c) After an application has been deemed complete, all parties shall have a minimum of seven days to review new submissions.

• • • •

D. Mailed notice of receipt of application.

• • • •

- (2) Content of notice. Notice of said hearing shall ~~contain a copy of this § 125-61 and shall~~ identify the applicant and the property involved, describe the specific nature of the proposal, state the date, time and place of the initial completeness review ~~and the anticipated hearing date~~, and explain how the recipient of the notice may review the application, attend the completeness review and hearing, present evidence and otherwise participate in the process.

E. Completeness review for major site plan.

- (1) Generally. Upon receipt of an application, the Planning Board shall conduct an initial review for the sole purposes of determining whether the application is complete and establishing the initial amount of any technical

assistance fee to be assessed pursuant to § 125-65D. If the application is deemed complete, it shall be deemed pending and the Planning Board shall set the matter for a public hearing to take place within 45 days of the initial review. If the application is deemed incomplete, the Planning Board shall, within 10 days, notify the applicant, in writing, of the specific additional material needed to complete the application. Upon the applicant's submission of such additional material, all parties shall be given at least seven days to review the additional submissions before the Planning Board again reviews the application to determine completeness. this step shall be repeated.

• • • •

F. Hearing for major site plan. Within 45 days of the Planning Board's certification that an application for site plan review is complete, the Planning Board shall conduct a public hearing on said application in accordance with the following:

- (1) Notice of hearing. Notice of said hearing shall be given to the applicant and shall be published at least twice in a newspaper of general circulation in the Town of Bar Harbor, with the first publication occurring at least seven days prior to the hearing date. ~~No other notice of hearing, mailed or otherwise, need be given.~~ Notice to abutters shall be mailed by first-class mail as per Section 125-61.D(1), except such mailing shall occur within 10 business days from the public hearing. Such notice shall contain the same language as the newspaper notice.

• • • •

G. Minor site plans and subdivision modifications. The Bar Harbor Planning Department shall review a minor site plan application or a subdivision modification application under § 125-58B(3), as follows:

• • • •

- (6) An applicant may submit one minor site plan or minor subdivision plan in any three year period per parcel of land. If an applicant wishes to submit more than one minor site plan or minor subdivision plan on the same parcel of land within a three year period the Planning Board shall be consulted to determine the appropriate review per § 125-58 (B)(4).

2. Temporary Storage Facilities – Mr. Paradis, with second by Ms. Schloss, moved to adopt and sign the Council Order for the Temporary Storage Facilities Ordinance. Motion passed 7-0.

Temporary Storage Facilities

An Amendment to allow for construction or job site office or equipment storage facilities to be in place for the duration of construction.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE V Site Plan Review

§ 125-69. Standards for particular uses, structures or activities.

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

• • • •

H. Temporary storage. Upon the approval of the Code Enforcement Officer, portable or mobile trailers, vans or similar vehicles or temporary buildings may be used for storage or display for a period not to exceed six months.

(1) Such approval may be extended by the Planning Board for successive periods of six months if the Board finds that:

- (a) The use does not diminish area requirements as set forth in the zoning ordinance for that district.
- (b) There is a valid temporary need which cannot be met within the principal structure and that adequate economic hardship can be shown.
- (c) The initial approval, or any renewal, of the use will not in any way be detrimental to the neighboring properties, including aesthetic appearance.
- (d) The use is not intended as a permanent or long-term use.

- (e) The use is not intended to circumvent building area limitations for that district or to prolong the use of facilities which have been out-grown.
 - (f) The facilities will be adequately screened from neighborhood properties and the street.
 - (g) The facilities will not be used as or intended for advertising for on- or off-premises purposes.
 - (h) The facilities are not intended for retail sales.
- (2) The above provisions do not prohibit the use of such temporary facilities as construction or job site office or equipment storage facilities during construction, provided that no advertising other than the contractor's name shall be on the vehicle or facility and that such signs meet the requirements of § 125-67BB(3)(f). Construction or job site office or equipment storage facilities shall be allowed to be in place during the entire duration of the construction for which the office or storage facility serves provided a building permit from the Code Enforcement Officer is granted prior to installation of such.

• • • •

-
- 3. Exceptions to Setbacks** – Mr. Paradis, with second by Ms. Schloss, moved to adopt and sign the Council Order for the Exceptions to Setbacks Ordinance. Motion passed 7-0.

Exceptions to Setbacks

An amendment to allow for exceptions to setbacks within the shoreland districts.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE V Site Plan Review

§ 125-67. General review standards.

The Planning Board, before granting site plan approval, must find that the proposed plan will comply with each of the following standards. In all instances the burden of proof shall be upon the applicant.

• • • •

- (6) Exceptions to setback. The following structures, subject to the limitations set forth below are not subject to the setback requirements of the district in which they are located (~~except in the Shoreland Districts~~), provided that no such structure shall be constructed in such a way as to obstruct visibility from the end of any driveway or otherwise to constitute a safety hazard; and provided the following structures comply with the provisions in sections 125-68 B. (8) and (12), if applicable.
- (a) Fences shall be set back 18 inches from the property line to allow both sides to be maintained from the land belonging to the owner of the fence and sufficient to allow compliance with driveway and sight distance standards found in Subsection E(27) and (20). Fences may be installed along a property line, provided that the abutting property owners consent to the location and agree to provide access for maintenance on the fence side separately and there is compliance with driveway and sight distance standards found in Subsection E(27) and (20).
 - (b) Driveways and walks, only with respect to front setbacks.
 - (c) Septic tanks and leach fields, except as necessary to comply with state law.
 - (d) Signs, provided that no sign shall be located closer than five feet to a lot line unless the setback requirement in that district is less than five feet.
 - (e) Lights and mailboxes.
 - (f) Equipment and structures necessary for access to or egress from any existing structure by a person with a disability as such term is defined in 5 M.R.S.A. § 4553, as amended, provided that such equipment or structures shall comply with the applicable setback requirements to the greatest extent possible and shall not be used for any other purpose, such as, but not limited to, display, dining or waiting area or living space. However, such access to or egress from any nonresidential structure constructed after May 7, 1996, shall comply fully with all applicable setback requirements.

- (g) Trellises, arbors or other structures intended solely for the support of live plants; structures less than three feet in height used solely for containing live plants, such as raised bed planters, hollow piers or walls containing raised plant beds; and freestanding dry laid stone walls less than four feet in height. In no case may any of the above be connected to a principal structure or used as an enclosure that would extend the footprint of an accessory structure inside the required setback.
- (h) Essential services.
- (i) Structures for active recreation in a public or private park may be required to meet only the front setback.

• • • •

-
- 4. Residential Garage Definition** – Mr. Paradis, with second by Mr. Veilleux, moved to adopt and sign the Council Order for the Residential Garage Definition Ordinance. Motion passed 7-0.

Residential Garage Definition

An Amendment to change the definition of a residential garage to remove the requirement that it not be more than 35% of the ground floor area of any principal one or two-family dwelling.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE XII Construction and Definitions

§ 125-109. Definitions.

The following terms shall have the following meanings:

• • • •

GARAGE, RESIDENTIAL -- An accessory building or a portion of the principal dwelling unit(s) used for parking or temporary storage of automobiles of residential occupants of the premises, ~~or a part of the residence occupying not more than 35% of the ground floor area of any principal one- or two-family dwellings.~~ Not more than one space may regularly be used by the private passenger automobile of a person not resident on the premises.

• • • •

-
5. **Nonconforming Vacation Rentals** – Mr. Paradis, with second by Mr. Veilleux, moved to adopt and sign the Council Order for the Nonconforming Vacation Rentals Ordinance. Motion passed 7-0.

Nonconforming Vacation Rentals

An amendment to change the language of how and when landlords show proof of vacation rentals on non-homestead exemption properties.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE IV Nonconformity

§ 125-54. Nonconforming uses of land or structures.

The use of any land or structure which is made nonconforming as a result of the enactment of this chapter, or any subsequent amendment, may be continued, but only in strict compliance with the following:

• • • •

- G. Nonconforming vacation rentals. Notwithstanding other requirements in this section, non-conforming vacation rentals shall comply with the following: [Added 6-13-2006]

- (1) Vacation rentals in dwelling units for non-homestead-exemption properties in neighborhood districts which do not allow the use shall continue to exist if evidence of continuation of the use of the dwelling unit is shown with registration as required in Chapter 190 of the Town Code. Evidence of continuation of the use shall be verification that the unit was rented ~~more than~~ at least 14 days during the previous twelve-month period. For new nonconforming vacation rentals, proof must be provided that the unit was rented at least 14 days between November 15, 2005 and November 15, 2006 and at least 14 days each year thereafter.
- (2) Vacation rentals in dwelling units in multifamily dwelling I or on lots containing three or four dwelling units in neighborhood districts which do not allow the vacation rental use shall continue to exist if evidence of continuation of the use of the dwelling unit is shown with registration as required in Chapter 190 of the Town Code. Evidence of continuation of the use shall be verification that the unit was rented ~~more than~~ at least 14 days during the previous twelve-month period. For new nonconforming vacation rentals, proof must be provided that the unit was rented at least 14 days between November 15, 2005 and November 15, 2006 and at least 14 days each year thereafter.
- (3) Vacation rentals in dwelling units in a multifamily dwelling II or on lots containing five or more dwelling units in neighborhood districts which do not allow the vacation rental use shall not continue to exist after November 15, 2006.
- (4) Nonconforming vacation rentals may be enlarged, extended and occupy a greater area of land, except no additional dwellings intended or constructed for additional vacation rentals shall be allowed.

• • • •

-
6. **Height (Downtown Business District) Definition** - Mr. Paradis, with second by Mr. Veilleux, moved to adopt and sign the Council Order for the Height (Downtown Business District) Definition Ordinance. Motion passed 7-0.

Height (Downtown Business Districts) Definition

An amendment to change the definition of Height in the Downtown Business Districts.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE XII Construction and Definitions

§ 125-109. Definitions.

The following terms shall have the following meanings:

• • • •

HEIGHT (DOWNTOWN BUSINESS DISTRICTS) -- The vertical distance between the mean original grade and the highest point of any structure- excluding chimneys, church steeples, silos, water tanks or towers, ornamental cupolas, towers or turrets, antennas, transmission towers, mechanical rooms, and windmills.

• • • •

-
7. **Gross Leasable Area Definition** – Mr. Paradis, with second by Mr. Veilleux, moved to adopt and sign the Council Order for the Gross Leasable Area Definition Ordinance. Motion passed 7-0.

Gross Leasable Area Definition

An amendment to change the definition of Gross Leasable Area.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE XII Construction and Definitions

§ 125-109. Definitions.

The following terms shall have the following meanings:

• • • •

GROSS LEASABLE AREA (GLA) -- The total area in square feet of a building or structure, measured from the ~~exterior~~ interior faces of exterior walls, and, in shared buildings or structures, from the center line of each interior wall dividing separately leased or separately owned space. For the sole purpose of calculating required parking spaces, GLA shall include only the area used for, or in support of, the principal use.

• • • •

-
- 8. Planned Unit Development – Outlying Area** – Mr. Paradis, with second by Mr. Veilleux, moved to adopt and sign the Council Order for the Planned Unit Development – Outlying Area Ordinance. Motion passed 7-0.

Planned Unit Development – Outlying Area

An amendment to add new standards to the Planned Unit Development – Outlying Area guidelines and make accompanying definition changes.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE V Site Plan Review

§ 125-68 (M) Planned Unit Development – Outlying Area.

M. Planned Unit Development - Outlying Area (PUD-O).

(1) Purpose and intent.

(a) The purpose of the Planned Unit Development - Outlying Area is to provide an opportunity for residential subdivision developments on large tracts of land to embody the principles of:

[1] Clustering of dwelling units to create buffers, open space and recreation areas;

- [2] Reduce infrastructure needs; and
 - [3] Reducing negative impacts to the environment from the development.
 - (b) A PUD-O is also offered to seek development projects that:
 - [1] Include affordable housing; ~~and~~ or
 - [2] Follow the applicable guidelines for the Great American Neighborhood; and/or
 - [3] Follow the guidelines of Low Impact Development
 - (c) The intent of PUD-O is to encourage development which benefits the Town as a whole by offering financial incentives. The PUD seeks to provide for enhanced planned developments by:
 - [1] Allowing greater freedom of design;
 - [2] Improving the opportunity for flexibility and creativity in the land development process; and
 - [3] Undertaking techniques which foster community and pedestrian access.
- (2) District and authority.
- (a) The Planned Unit Development-Outlying Area is an overlay option to zoning in existing neighborhood districts. The districts in which the PUD-O overlay is permitted are Bar Harbor Residential in those areas not served by the Town sewer system; Hulls Cove Rural in those areas not served by the Town sewer system; Emery; Indian Point Residential; Indian Point Rural; McFarland Hill Residential; McFarland Hill Rural; Town Hill Corridor; Town Hill Residential; Town Hill Rural; Otter Creek; Salisbury Cove Corridor; Salisbury Cove Residential; and Salisbury Cove Rural. Properties in the above-noted neighborhood districts with a portion of land in the Shoreland Residential, Resource Protection and Stream Protection Neighborhood Districts may apply for a PUD-O; however these properties must still meet shoreland standards contained in § 125-68.
 - (b) Applicants may choose to permit a project as a PUD-O; otherwise the underlying zoning requirements apply.
 - (c) The Planning Board is the permitting authority for a PUD-O; however, any other permits and approvals required must be sought and received by the applicant. A PUD-O does not relieve the applicant from obtaining any local, state and/or federal permits that may be required.
- (3) PUD-O process.

- (a) The PUD-O process shall include the requirements of a subdivision approval process as outlined in Articles V and VI. Any modification upon approval shall be subject to the requirements of § 125-58B.
- (b) In addition to Subsection M(3)(a) above, and as part of the sketch plan filing, applicants shall prepare a site analysis diagram graphically identifying major physical features of the site, including but not limited to existing structures and improvements, land cover type, wetlands, watercourses and significant vernal pools, slopes greater than 20%, district boundaries. The site analysis shall identify the context of the neighborhood surrounding the project area by showing graphically the relationship of proposed new structures or alterations to nearby preexisting structures in terms of character and intensity the of use (e.g. scale, materials, setbacks, roof and cornice lines, and other major design elements). The analysis shall also include a graphic illustration of the visual impacts and viewshed alterations that the proposed development will have on neighboring properties because of the location and configuration of proposed structures, parking areas, open space, and gradient changes.
- (c) At the sketch plan submission, the Planning Board may require the applicant to prepare a plan to show a possible layout for a conventional subdivision application. This plan may be used by the Planning Board to determine base development density.
- ~~(e)~~(d) Prior to submitting an application for a PUD-O, and after the submission of the sketch plan, the Planning Department will hold a neighborhood meeting. Abutters within 600 feet of the application parcel shall receive notice of this meeting.
- (4) Parcel size and eligibility.
 - ~~(a)~~ — ~~The minimum size of a parcel seeking application for PUD-O shall be 15 acres.~~
 - ~~(b)~~(a) The application parcel cannot contain in the aggregate more than 50% of the following land type(s):
 - [1] Wetlands and significant vernal pools;
 - [2] Sustained slopes greater than 20%;
 - [3] Areas within 75 feet, horizontal distance, of the normal high water line of a stream, great pond, river, saltwater body or significant vernal pool;
 - [4] Floodplains.
 - ~~(e)~~(b) An application for a PUD-O may consist of land in more than one ownership, provided that all land comprising the parcel lies entirely within the PUD-O overlay district and is contiguous. Lots

separated by a minor street as defined may be considered contiguous for this purpose.

- ~~(d)~~(c) Proposed developments may include preexisting buildings, provided that all PUD-O requirements are satisfied by each new or existing building and these are included in calculations for the PUD-O as a whole.
- (5) Permitted uses. The Planning Board may consider the allowance of multifamily dwellings not otherwise allowed in the underlying district when the construction of multifamily dwelling structures will result in the creation and/or retention of larger buffers, open space and recreation areas that might not be possible otherwise in the development, reduce negative impacts on the environment and will be consistent with the purpose and intent of this provision.
- (6) Intensity of development.

 - (a) Number of allowable dwelling units.

 - [1] Applications shall show the density allowed for a conventional subdivision application. This density shall be used in calculations for requisite open space, affordable unit dedication and also as the base requirement that the Planning Board may increase as noted below. This plan establishes the "base development density." Land encumbered at the time of the application by conservation easement cannot be included in the calculation for base development density.
 - [2] An increase in the number of dwelling units above the base development density shall be considered for the following provisions:

 - [a] For every additional affordable dwelling unit, an additional market-rate dwelling unit may be allowed.
 - [b] For 10% of additional open space dedicated on the application parcel, an additional market-rate dwelling unit may be allowed.
 - [c] For the provision by deed and construction of active recreation space, an additional market-rate dwelling unit may be allowed.
 - [d] For projects that meet, either by application or by affidavit for adherence during construction, the standards of Leadership in Energy & Environmental Design of the U.S. Greenbuilding Council ("LEEDS") or an approved equivalent, for all dwelling units, an additional market-rate dwelling unit may be allowed.

- [e] For projects that propose to construct new pedestrian amenities to connect the proposed development to other areas, amenities or goods and services, an additional market-rate dwelling unit may be allowed.
 - [f] For projects that provide formal access to public transportation, an additional market-rate dwelling unit may be allowed.
 - [g] For projects that restore or preserve an historic resource existing on the property as part of the application, an additional market-rate dwelling unit may be allowed.
 - [h] For projects that place all public utilities, other than stormwater management systems, underground on the application parcel, an additional market-rate dwelling unit may be allowed.
 - [i] For projects that utilize shared septic systems for all of the dwelling units, an additional market-rate dwelling unit may be allowed.
- [3] A PUD-O may never exceed the allowable number of dwelling units by more than 1 1/2 times the base development density, except as listed below:
- [a] The maximum allowable number of dwelling units may be twice the base development density when the increase in dwelling units above the base development density is allowed as a result of the addition of affordable housing units under § 125-69 M(6)(a)[2][a] and no other provision.
 - (b) Affordable units and lots. For applications that propose to exceed the base development density, in the final plan must include a the minimum number of affordable units or lots must be that is 20% of the base development density. These units and lots must be in compliance with § 125-69R. Each of these units shall be allowed a companion market-rate unit.
 - (c) Open space.
 - [1] All PUD-Os shall set aside by deed or easement an area in square footage at least ~~20%~~ 40% of the application parcel as open space.
 - [2] Open space calculations may not include land that is under conservation easement at the time of application.

- [3] Open space is not required to be contiguous; however, no open space area in square footage set aside shall be less than 5% of the application parcel;
 - [4] No more than 75% in the aggregate of the following land types can be used in the calculation of open space:
 - [a] Wetlands and significant vernal pools;
 - [b] Sustained slopes greater than 20%;
 - [c] Stormwater management systems; and
 - [d] Area(s) within 75 feet, horizontal distance, of the normal high water line of a stream, great pond, river, saltwater body, or significant vernal pool.
 - [5] Restrictive language. The applicant shall present the Planning Board with proposed language for incorporation into deeds, recorded plans and declarations designed to ensure the integrity, protection and maintenance of the common open space. Such language shall be subject to the approval of the Town Attorney to be sure it will accomplish its intended purposes. The applicant will comply with all reasonable requests of the Town to incorporate such language in appropriate documentation to ensure the purposes of this section will be met.
- (d) Dimensional controls.
- [1] The standards in Article III may be modified through review by the Planning Board to ensure the purpose and intent of this ordinance are met.
 - [2] The aggregate lot coverage of a PUD-O cannot exceed that of the neighborhood district.
 - [3] In no event shall height requirements be allowed to exceed the requirements of the underlying neighborhood district.
- (e) Other standards. The standards found in § 125-67 may be considered for modification in instances where the applicant adequately shows that the proposed application meets the purpose and intent of a PUD-O.
- (7) Criteria for approval.
- (a) In reviewing PUD-O applications, the Planning Board shall use the requirements found in §§ 125-67 and 125-69 as applicable and as may be modified to meet the Purpose and Intent of a PUD-O.
 - (b) The Planning Board also shall use the requirements of § 125-68, which shall not be modified, for review of property in a shoreland zone(s) as may be applicable.

- (c) All Planning Board approvals of PUD-Os are contingent upon the development meeting the express purpose and intent of a PUD-O.

ARTICLE V Site Plan Review

§ 125-69 Standards for particular uses, structures or activities.

• • • •

R. Affordable Housing

• • • •

(3) Standards.

- (a) Affordable housing units shall be sold or rented to qualified moderate-income buyers as defined. Preference shall be given first to Town residents and then to employees of the Town or of a public school in Bar Harbor. A determination of preference shall only be instituted when the number of qualified and interested buyers exceeds the number of available units. When the number of units available exceeds the number of qualified and interested buyers, the owner shall advertise in a newspaper of general circulation that affordable housing is available for sale or rent. All affordable housing units shall be owner-occupied or, in the case of rental units, occupied by the lessee.

- (b) ~~For subdivisions and multifamily developments, affordable housing units shall be compatible with the design of the dwellings on the remainder of the development in terms of appearance, materials, finished quality and level of finish, including finished second floors, and providing a reasonably comparable number of finished bedrooms and baths to the market rate dwellings in the development.~~

• • • •

- (g) Condominium documents shall state that:
- [1] The unit owner's percentage interest in the condominium shall be based on the initial unit sales price (not square footage of the unit);
 - [2] There shall be one vote per unit owner;
 - [3] Condominium documents shall prohibit amendments to affordability provisions;

- [4] Affordable units shall not be encumbered or mortgaged without the written approval of the ~~Planning Director~~ approved third-party entity, which approval shall be granted or denied within 14 days of the request.

• • • •

ARTICLE XII Construction and Definitions

§ 125-109 Definitions.

The following terms shall have the following meanings:

• • • •

AFFORDABLE HOUSING -- Lots/units which may be purchased or rented for occupancy by people with ~~a~~ up to 120% of moderate income as established by the State Planning Office or the Hancock County Planning Commission.

CONVENTIONAL SUBDIVISION -- A subdivision planned under the dimensional controls found in Articles III and V, §§ ~~125-67 and 125-69, respectively, of this chapter.~~

LOT AREA -- The area contained within the boundary lines of a lot minus:

- A. Land below the normal high water line of a water body or upland edge of a wetland;
- B. Sustained Slopes Greater than 20%
- ~~B.C.~~ Land held in a conservation easement that limits the use of the land to activities that are no more intense than passive recreation; and
- ~~C.D.~~ Areas beneath roads serving more than two lots.

LOW IMPACT DEVELOPMENT - this is a reference to the document entitled: "LID Guidance Manual for Maine Communities - Approaches for implementation of Low Impact Development practices at the local level" dated September 21, 2007 prepared for the Maine Coastal Program State Planning Office Augusta, Maine, as may be amended or updated by the source.

-
9. **Lighting Ordinance** - Mr. Garland, with second by Ms. Schloss, moved to adopt and sign the Council Order for the Lighting Ordinance. Motion failed 3-4 (Nay: Mr. Paradis, Mr. McFarland, Mr. Veilleux, Mr. Jordan).

10. Wireless Communication Facilities Ordinance – Mr. Jordan, with second by Ms. Schloss, moved to adopt and sign the Council Order for the Wireless Communication Facilities Ordinance. Motion passed 6-1 (Nay: Mr. Paradis).

Wireless Communication Facilities Ordinance

An amendment to add a 1,500 foot setback to private compulsory schools and child care centers, increase the setback of public schools from 500 feet to 1,500 feet and make other minor language modifications.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE V Site Plan Review

• • • •

§ 125-69. Standards for particular uses, structures or activities.

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

• • • •

T. Wireless Communication Facilities

- (1) Purpose. The purpose of this section is to provide a uniform and comprehensive set of performance standards and requirements to be used by the Planning Board during the site plan review process upon review of an application for the placement and construction of a wireless communications tower. These standards and requirements are intended to regulate the location and installation of such facilities in order to:

• • • •

- (c) Protect adjacent properties from potential damage from tower failure, falling ice and to prevent other hazards to ~~public health and~~ public safety through careful siting regulations and engineering requirements.

• • • •

- (8) Submissions. In addition to all of the relevant site plan review submission requirements listed in §125-66, the following submissions shall be required unless waived by the Planning Board.

• • • •

- (f) A narrative and demonstration discussing detailing the extent to which the proposed facility would be visible from a designated scenic resource (see definition) and Acadia National Park, the tree line elevation of vegetation within 300 feet and the distance to the proposed facility from the designated scenic resources noted viewpoints.

• • • •

- (10) Location. All communication facilities shall be located so as to minimize their visibility and to minimize the total number of towers in the Town. The following measures shall guide the location.

• • • •

- (b) No facility shall be located so as to create a significant ~~threat~~ impact to the health or survival of rare, threatened or endangered plant or animal species.

• • • •

- (d) No facility shall be located within ~~500~~ 1500 feet of a ~~public~~ municipal school, private compulsory school or child care center as defined in this chapter at the time of application.

• • • •

11. Shoreland Standards – Mr. Paradis, with second by Mr. Veilleux, moved to adopt and sign the Council Order for the Shoreland Standards Ordinance. Motion passed 7-0.

Shoreland Standards

An amendment to update the regulations for Shoreland Standards.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE I General Provisions

§ 125-8. When effective; filing; repealer.

• • • •

- D. Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the Shoreland zone. On the date established under 38 M.R.S.A. section 438-A(5), the following provisions of this Ordinance are repealed:

- (1) Table of Uses: "Forest management activities except for timber harvesting" and "Forest management activities including timber harvesting...#2".
- (2) Section 125-68 (B)(2) in its entirety.
- (3) Section 125-109 definitions for "forest management activities".

ARTICLE II Establishment of Districts

§ 125-11. Policy statements for establishing districts.

• • • •

- G. Resource protection district. The purpose of the resource protection district is to preserve wetlands, stream corridors and areas subject to flooding, and other areas in which development would adversely impact water quality, productive habitat, biological ecosystems, or scenic or natural values, and to provide a minimum setback from these significant natural areas. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the stream protection district, except that areas which are currently developed and areas which meet the criteria for the shoreland general development district need not be included within the resource protection district:

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas by the Maine Department of Inland Fisheries and Wildlife that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. as of January 1, 1973. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

• • • •

- (4) Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal spring high water. (Inasmuch as these types of areas are not adequately mapped by any federal, state or local agency, it may not be possible to identify them prior to the detailed evaluation of a specific site.)

• • • •

- K. Stream protection district. The stream protection district includes all land areas within 75 feet, horizontal distance, of the normal high water line of a stream, exclusive of those areas within 250 feet, horizontal distance, of the normal high water line of a great pond, or river or saltwater body, or within 250 feet, horizontal distance, or the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

• • • •

ARTICLE IV Nonconformity

§ 125-55. Nonconforming structures.

Any structure which is made nonconforming as a result of this chapter, or any subsequent amendment, may be continued, but only in strict compliance with the following:

- A. No structure shall be enlarged, altered or extended in any way that increases its nonconformity. Any enlargement, alteration or extension that does not project past existing walls, foundations or eaves that already encroach into the required setback area shall not be considered to increase a structure's nonconformity. However, the following limitations shall apply to nonconforming structures within 75 feet of the normal high water line of a water body, tributary stream, significant vernal pool or upland edge of a wetland and 100 feet from the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA:
- (1) ~~Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided~~ Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be ~~are~~ placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, considering the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed, and that the foundation does not cause the structure to be elevated by more than three additional feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
 - (2) Notwithstanding the provisions of Subsection A(1), no structure which is less than the required setback from the normal high water line of a water body, tributary stream, or upland edge of a wetland, shall be expanded toward the water body, tributary stream, or wetland, nor may any portion of such structure which is less than the required setback be expanded in floor area or volume by 30% or more during the lifetime of the structure. The 30% expansion limitation shall only be applied to a structure after January 1, 1989.
- B. Any structure may be razed and rebuilt up to the dimensions (length, width and height) of the individual structure that was razed plus any enlargements, alterations or extensions permitted by Subsection A(1), provided rebuilding is begun within one year and completed within two years after the structure is razed; provided, however, that such rebuilding of any nonconforming structure which is located less than the required setback from the normal high water line of a water body, tributary stream, or upland edge of a wetland is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter. In no case shall a structure rebuilt under this subsection be combined with another structure or be reconstructed or replaced so as to increase its nonconformity.

- (1) Any nonconforming structure which is located less than the required setback from the normal high water line of a water body, tributary stream, or upland edge of a wetland and which is removed by 50% or less of the market value or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.
 - (2) Any nonconforming structure which is located less than the required setback from ~~the normal high water line of~~ a water body, tributary stream, or ~~upper edge of a~~ wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within ~~one~~ year eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this chapter. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to §125-55 (A) (1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with §125-55 (C).
 - (3) In determining whether the building reconstruction or replacement meets the ~~water~~ setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, the type and amount of vegetation to be removed to accomplish the relocation and the physical condition and type of foundation present, if any.
- C. A nonconforming structure may be relocated within the boundaries of the lot on which the structure is located provided that the Board of Appeals finds that the proposed new location and design are more appropriate with regard to location, character and natural features; fencing and screening; landscaping and

topography; traffic and access; signs and lighting; and potential nuisance, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Board of Appeals, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules (rules), or that a new system can be installed in compliance with the law and said rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming. In determining whether the building relocation meets the setback to the greatest practical extent, the Board of Appeals shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (1) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
- (2) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- D. The use of a nonconforming structure located in any shoreland district may not be changed to another use unless the Board of Appeals, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources, than the existing use. In determining that no greater adverse impact will occur, the Board of Appeals shall require written documentation from the applicant regarding the probable effects on public health

and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

• • • •

ARTICLE V Site Plan Review

§ 125-68. Shoreland Standards.

• • • •

- B. The Planning Board, Code Enforcement Officer or Planning Department, as applicable, must find that the proposed plan will comply with such of the following standards as are applicable:
- (1) Agriculture. All site plans shall demonstrate that any agricultural activities in shoreland areas shall comply with the following.
 - (a) All spreading ~~or disposal~~ of manure shall be accomplished in conformance with the ~~Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July 1972, Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. section 4201-4209), or subsequent revisions thereof.~~
 - (b) Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond. Classified GPA, or within 75 feet, horizontal distance, of other water bodies, streams, tributary streams, significant vernal pools, or wetlands. ~~Within five (5) years of the effective date of this All ordinance, all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain but must meet the no-discharge provision within the above five year period.~~
 - • • •
 - (e) There shall be no tilling of soil within 100 feet, horizontal distance, of the normal high water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies and coastal wetlands; nor within 25 feet, horizontal distance, of tributary streams, significant vernal

pools, and freshwater wetlands. Operations in existence on the effective date of this chapter and not in conformance with this provision may be maintained.

- (f) ~~After the effective date of this chapter, n~~Newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high water line of a great pond classified GPA; within 75 feet, horizontal distance, of other water bodies and coastal wetlands; nor within 25 feet, horizontal distance, of tributary streams, significant vernal pools, and freshwater wetlands. Livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a soil and water conservation plan.
- (2) Timber harvesting. All site plans shall demonstrate that all timber harvesting proposed in a shoreland area shall comply with the following minimum requirements:

• • • •

Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A. section 438-A(5), the following provisions of this Ordinance are repealed:

- Table of Uses: "Forest management activities except for timber harvesting" and "Forest management activities including timber harvesting...#2".
- Section 125-68 (B)(2) in its entirety.
- Section 125-109 definitions for "forest management activities".

NOTE: The statutory date established under 38 M.R.S.A. section 438-A(5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards." 38 M.R.S.A. section 438-A(5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards."

• • • •

- (6) Uses projecting into the water. Site plans for piers, docks, wharves, breakwaters, causeways, marinas or other structures or uses projecting into bodies of water shall demonstrate that the proposed development will comply with the following requirements; provided, however, that such compliance shall not relieve the applicant from obtaining, before construction begins, all other required federal, state and local licenses and permits.
- (a) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
 - (b) The location shall not interfere with developed beach areas.
 - (c) The facility shall be located so as to minimize adverse effects on fisheries.
 - (d) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and existing conditions, uses, and character of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
 - (e) The facility shall provide or have access to such sewage disposal facilities as may be required by state law or as may reasonably be required to accommodate the reasonably anticipated needs of its users and to minimize the possibility of intentional or accidental discharges of raw sewage into the water.
 - (f) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
 - (g) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

• • • •

- (8) Roads and driveways. All site plans for development, including roads, shall demonstrate that such roads shall be located, constructed and maintained so that minimal soil erosion and sedimentation of surface water results. Further, all roads, driveways, drainage systems, culverts and related features constructed in a shoreland area shall comply with the following:

• • • •

- (e) Roads and driveways shall be set back at least 100 feet, horizontal distance, from the normal high water line of a great pond classified GPA or a river that flows to a great pond classified GPA; 75 feet, horizontal distance, from the normal high water line of other water bodies, tributary

steams, or the upland edge of a freshwater wetland; 25 feet from a significant vernal pool; and 25 feet from the upland edge of a forested wetland unless no reasonable alternative exists as determined by the Planning Board, Planning Department or Code Enforcement Officer, as applicable. If no other reasonable alternative exists, the Planning Board, Planning Department or Code Enforcement Officer, as applicable, may reduce the road and/or driveway setback requirement shall be to no less than 50 feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. On slopes of greater than 20% the road and/or driveway setback shall be increased by 10 feet, horizontal distance, for each five-percent increase in slope above 20%. This subsection shall apply neither to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this section except for that portion of the road or driveway necessary for direct access to the structure.

- (f) Existing public roads may be expanded within the legal road right-of-way regardless of ~~its~~ their setback from a water body, tributary stream or wetland.
- ~~(g)~~ ~~New permanent roads are not permitted within the shoreland zone along significant river segments except to provide access to structures or facilities within the zone or if the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high water line and screened from the river by existing vegetation.~~
- ~~(h)~~(g) New roads and driveways are prohibited in a resource protection district except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district., A road or driveway may also be or as approved by the Planning Board in a resource protection district, upon a finding that no reasonable alternative route or location is available outside the district., ~~in which case~~ When a road or driveway is permitted in a resource protection district the road and/or driveway shall be set back as far as practicable from the normal high water line of a water body, tributary stream, significant vernal pool, or upland edge of a wetland.

- (h) Road and driveway banks shall be no steeper than a slope of two horizontal to one vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Subsection D of this section.
- (i) Road and driveway grades shall be no greater than 10% except for ~~short~~ segments of less than 200 feet.
- (j) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high water line of a water body, tributary stream, significant vernal pool or upland edge of a wetland. ~~Road-s~~Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (k) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- [1] Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Road Grade	Spacing (feet)
0% to 2%	250
3% to 5%	200 to 135
6% to 10%	100 to 80
11% to 15%	80 to 60
16% to 20%	60 to 45
21% +	40

- [2] Drainage dips may be used in place of ditch relief culverts only where the ~~road~~ grade is 10% or less.
- [3] On ~~road~~ sections having slopes greater than 10%, ditch relief culverts shall be placed ~~across the road~~ at approximately a thirty-degree angle downslope from a line perpendicular to the center line of the road, or driveway.
- [4] Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

- ~~(m)~~(1) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

• • • •

- (12) Principal and accessory structures. All site plans shall demonstrate that all principal and accessory structures in a shoreland district shall comply with the following:
- (a) All new principal and accessory structures shall be set back at least 100 feet, horizontal distance from the normal high water line of great ponds classified GPA and rivers that flow to great ponds classified GPA and 75 feet, horizontal distance from the normal high water line of other water bodies, tributary streams, significant vernal pools or the upland edge of a wetland, except that in a shoreland general development district the setback from the normal high water line shall be at least 25 feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply In addition:
- [1] The water body, tributary stream, or wetland setback provision shall not apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- ~~[2] All principal structures along significant river segments as listed in 38 M.R.S.A. § 437 shall be set back a minimum of 125 feet from the normal high water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.~~
- ~~[3]~~[2] Principal and accessory structures are exempt from setbacks from a forested wetland of any size on lots in existence prior to or on September 6, 2005, or from a freshwater wetland less than 10 acres in size on lots in existence prior to or on September 6, 2005.
- [3] For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent

Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached the applicant may appeal the matter to the Board of Appeals.

- [4] On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

• • • •

- (13) Clearing or removal of vegetation for activities development other than timber harvesting. All site plans shall demonstrate that clearing of vegetation for purposes of development shall be accomplished in accordance with the following:
- (a) ~~Within~~ In a shoreland area zoned as a ~~for~~ resource protection district abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high water line, except to remove safety hazards. Elsewhere, in any resource protection district the cutting and removal clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
 - (b) Except in areas as described in Subsection M(1) above, and except to allow for the development of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA, 75 feet, horizontal distance, from any other water body, tributary stream, stream, significant vernal pool or the upland edge of a freshwater wetland, and 25 feet from the upland edge of a forested wetland, a buffer strip of vegetation shall be preserved as follows:
 - [1] There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested

canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed ~~10~~ six (6) feet in width as measured between tree trunks and/or shrub stems is ~~permitted~~ allowed provided that a cleared line of sight to the water through the buffer strip is not created. ~~Adjacent to a great pond-classified GPA, or stream or river flowing to a great pond-classified GPA, the width of the footpath shall be limited to six feet.~~

- [2] Selective cutting of trees within the buffer strip is permitted allowed provided that a well-distributed stand of trees and other natural vegetation is maintained.

- [a] For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA, or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of ~~12~~ 24 or more in each any twenty-five-foot by twenty-five ~~five~~-foot square (~~625~~ 1250 square feet) area as determined by the following rating system:

Diameter of Tree at 4 ½ Feet Above Ground Level (inches)

	Points
2 to \leq 4	1
Greater than 4 to 12 <u>4 - < 8</u>	2
Greater than 12 <u>8 - < 12</u>	4
<u>12 or greater</u>	<u>8</u>

• • • •

- [b] Adjacent to other water bodies, tributary streams, significant vernal pools, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of eight ~~sixteen~~ per twenty-five-foot by 50-foot rectangular square area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this subsection “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

• • • •

[3] In order to protect water quality and wildlife habitat adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed except to provide for a footpath or other permitted uses as described in the preceding subsections.

[4] Pruning of tree branches on the bottom 1/3 of the tree is permitted allowed.

• • • •

[6] ~~The provisions contained in this Subsection M(2) does~~ shall not apply to those portions of public recreational facilities adjacent to public swimming areas as long as. ~~Cleared areas are however, shall be~~ limited to the minimum area necessary.

(c) At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA and 75 feet, horizontal distance, from the normal high water line of any other water body, tributary stream, significant vernal pools, or the upland edge of a wetland, ~~except to allow for the development of permitted uses~~, there shall be permitted allowed on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in

the forty-percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event shall cleared openings for any purpose development, including but not limited to principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate 25% of the lot area within the shoreland district or 10,000 square feet, whichever is greater, including land previously ~~developed~~ cleared. This provision shall not apply to the General Development or Commercial/Fisheries/Maritime Activities District.

- (d) ~~Legally existing nonconforming c~~Cleared openings ~~legally in existence on the effective date of this chapter~~ may be maintained but shall not be enlarged, except as ~~permitted~~ allowed by this chapter.
 - (e) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.
- (14) Water quality. No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body., tributary stream or wetland.

• • • •

- (16) Commercial and industrial uses. The following new commercial and industrial uses are prohibited within a shoreland district adjacent to great ponds classified GPA and rivers and streams which flow to great ponds classified GPA:

• • • •

- (d) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms.

• • • •

- (17) Parking areas. All site plans shall demonstrate that any parking areas associated with proposed development in a shoreland district shall comply with the following requirements:

- (a) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in districts other than shoreland general development districts ~~may shall be reduced to~~ no less than 50 feet, horizontal distance, from the

~~shoreland or tributary stream normal high water line or upland edge of a wetland~~ if the Planning Board finds that no other reasonable alternative exists further from the shoreland or tributary stream.

- (b) Parking areas shall be adequately sized for the proposed use, shall comply with the requirements of § 125-67E and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and, where feasible, to retain all runoff on site.

• • • •

- (18) Essential services. All site plans shall demonstrate that essential services shall be installed in compliance with the following:

• • • •

- (b) The installation of essential services, other than road-side distribution lines, is not ~~permitted~~ allowed in a resource protection or stream protection district, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where ~~permitted~~ allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

- (c) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

- (19) Private campsites. Individual, private campsites not associated with campgrounds are ~~permitted~~ allowed provided the following conditions are met:

• • • •

- (b) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet, horizontal distance, from the normal high water line of a great pond classified GPA or river flowing to a great pond classified GPA and 75 feet, horizontal distance, from the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland.

- (c) Only one recreational vehicle shall be allowed on a campsite. The ~~r~~Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s), except a canopy ~~ies~~, shall be attached to the recreational vehicle.

• • • •

- (20) Signs. Notwithstanding any less restrictive provision of this chapter, the following provisions shall govern the use of signs in the resource protection, stream protection, and shoreland limited residential districts:

• • • •

- (c) Signs relating to trespassing and hunting shall be ~~permitted~~ allowed without restriction as to number, provided that no such sign shall exceed two square feet in area.
- (d) Signs relating to public safety shall be ~~permitted~~ allowed without restriction.

• • • •

ARTICLE XI Appeals and Variances

§ 125-102 Variances.

• • • •

D. Submissions generally.

- (1) At least 20 days prior to the Board of Appeals meeting at which a petitioner wishes to be heard, the petitioner shall provide to the Planning Department copies of all application materials in the form and quantity described in § 125-61B, except that each submission shall be conspicuously labeled "Variance Exhibit 1," "Variance Exhibit 2" and so on, in consecutive fashion. The petitioner shall also provide the Commission of the Department of Environmental Protection with 1 copy of all application materials in the form and quantity described in § 125-61B.

• • • •

ARTICLE XII Construction and Definitions

§ 125-109 Definitions.

The following terms shall have the following meanings:

• • • •

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

DISABILITY – any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which required special education, vocational rehabilitation or related services.

FLOODWAY – the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

FOUNDATION — The supporting substructure of a building or other structure, ~~excluding~~ wooden sills and post supports, ~~including~~ but ~~not limited to~~ including basements, slabs, ~~sills, posts or~~ frost walls, or other base consisting of concrete, block, brick or similar material.

FUNCTIONALLY WATER-DEPENDENT USES – those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses included, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

GROUND COVER – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

INCREASE IN NONCONFORMITY OF A STRUCTURE - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be ex-

panded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

LICENSED FORESTER – a forester licensed under 32 M.R.S.A. Chapter 76.

NATIVE – indigenous to the local forests.

NORMAL HIGH WATER LINE (non-tidal waters) — That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. In the case of wetlands adjacent to rivers and great ponds, the normal high water line is the upland edge of the wetland and not the edge of the open water.

PUBLIC FACILITY - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

REPLACEMENT SYSTEM - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residual Basal Area – the average of the basal area of trees remaining on a harvested site.

SALT MARSH — Areas of ~~along~~ coastal wetland waters (most often along coastal bays) which ~~that~~ support salt-tolerant species and where at average high tide during the growing season the soil is irregularly inundated by tidal waters. The predominant species is salt marsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

SALT MEADOW — Areas of a coastal wetland that ~~which~~ support salt-tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

SETBACK — The horizontal distance from a lot line or normal high water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object, activity or area.

SHORELAND DISTRICT OR ZONE — The land area located within 250 feet, horizontal distance, of the normal high water line of any great pond, or river, or saltwater body;

within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within 75 feet, horizontal distance of the normal high water line of a stream.

SHORELINE – the normal high-water line, or upland edge of a freshwater or coastal wetland.

SKID ROAD OR SKID TRAIL – a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

SLASH – the residue, e.g., treetops and branches, left on the ground after a timber harvest.

SUBSURFACE SEWAGE DISPOSAL SYSTEM — Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system. A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system licensed under 38 M.R.S.A. § 413(1-A), or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, Subchapter 1.

TIDAL WATERS – all waters affected by tidal action during the maximum spring tide.

TIMBER HARVESTING — The selective cutting and removal of at least 50 cords, or equivalent, of timber from one lot or from abutting lots, irrespective of the ownership of such lots, within a one-year period for the primary purpose of selling or processing forest products, and the attendant operation of harvesting machinery. Timber harvesting does not include the construction of roads or the clearing of land for approved construction for which a lawful permit has been issued in accordance with state and local codes, ordinances, statutes, rules and regulations. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to section 125-68 (B)(13).

WATER CROSSING — Any project extending from one bank to the opposite bank of a water body or wetland, whether under, through, or over the water body or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines,

sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

WETLAND, UPLAND EDGE — The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that six (6) meters (approximately twenty (20) foot) tall or taller.

WOODY VEGETATION – live trees or woody, non-herbaceous shrubs.

WETLAND, COASTAL — Tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action, all areas with vegetation present that is tolerant of saltwater and occurs primarily in a saltwater or estuarine habitat, and any swamp, marsh, bog, beach, flat or other contiguous lowland ~~which~~ that is subject to tidal action during the ~~maximum spring~~ highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands include coastal portions of sand dunes.

VI. REGULAR BUSINESS:

A. Water & Sewer Fee Commitment – *Request of the Town Manager for water and sewer fee commitment to the Town Treasurer for collection.* – Mr. Paradis, with second by Mr. Veilleux, moved to sign the Certificate of Commitment for Water and Sewer Fees. Motion passed 7-0.

B. Maine Municipal Association – *Review and possible action on the election of:*

1. *Representatives to the Legislative Policy Committee.*
2. *Vice President and Executive Committee*

Mr. Paradis, with second by Mr. Veilleux, moved to cast ballots for James Schatz and Michael MacDonald for the MMA Legislative Policy Committee and to endorse the slate suggested by the MMA Nominating Committee for the MMA Vice President and Executive Committee. Motion passed 7-0.

C. Taxi Cab License: Blue Hill Peninsula Taxi Tours – *Request of Spotlight Private Cars LLC, submitted by Herbert Mitchell, for three taxi and one bus license. Approved by Police Chief. Proof of Insurance provided.* – Mr. Paradis, with second by Mr. McFarland, moved to approve a Taxi Cab License for three taxis and one bus license as requested for Blue Hill Peninsula Taxi Tours. Motion passed 7-0.

D. Boards & Committees – Appointments to board and committee seats:

1. **Design Review Board** - *Possible appointment of Todd Hardy to a one or three year term expiring on June 30.* – Mr. Jordan nominated Todd Hardy for a three year term, expiring June 30, 2011, to the Design Review Board. Mr. Hardy failed to be appointed by a vote of 2-5 (Nay: Mr. Veilleux, Ms. Schloss, Mr. Paradis, Mr. McFarland, Ms. Eveland). Mr. Hardy was not present to answer questions. Council requested staff to contact Mr. Hardy, and request he complete his application, and attend the next meeting.
2. **Parks & Recreation Committee** – *Possible appointment of Jeff Dobbs to a three year term expiring June 30, 2011.* – Mr. Jordan nominated Jeff Dobbs for a three year term, expiring June 30, 2011, to the Parks & Recreation Committee. Mr. Dobbs was declared appointed to Parks and Recreation Committee by a unanimous vote of 7-0.

E. Board & Committee Consultations: Appeals Board – *Discussion of current projects, future plans and any support needed from Town Council.* – Appeals Board members in attendance were: Chair Ellen Dohmen, Mike Siklosi, Roger Samuel, and Don Bell. Ms. Dohmen expressed the board's appreciation for the new fee schedule. The board only met twice this year and contribute some of that to the new fees. They are also pleased to be included in the televised meetings. They felt this was an opportunity for the residents to become more aware of and familiar with the appeals process.

F. Wharf License: Ruger – *Application of Mr. William B. Ruger, Jr. for a pier and float at 145 Eden Street, tax map 224, lot 19.* – The Harbor Committee met the day before to review the proposed wharf license, and sent a written recommendation for approval of the request, and stating they could see no impact to navigation in the area. Mr. Paradis, with second by Mr. Garland, moved to hold a public hearing on August 5, 2008 for the wharf license application of William B. Ruger, Jr. Motion passed 7-0.

G. Fire Engine #3:

1. *Request of the Town Manager for permission to sell our thirty year old pumper to a scrap dealer.*
2. *Recommendation of the Town Manager to start shopping for a new fire truck.*

Following a brief discussion, Mr. Paradis, with second by Mr. Garland, moved to authorize the Town Manager to sell Fire Engine #3 for scrap, and to waive the usual purchasing procedure established by Council policy, to authorize the Town Manager to obtain written bids for a fire truck to replace Engine #3 and to direct the Town Manager to return to the Town Council for award of the contract. Motion passed 7-0.

H. Cruise Ship Study Task Force:

1. **Cruise Ship Bus Parking** – *Cruise Ship Study Task Force report on the recent test of a downtown bus passenger drop off area and request for additional test dates.* – Following a report from Council representative Paul Paradis, Mr. Paradis, with second by Ms. Schloss, moved to request staff to coordinate further tests, on two additional dates to be determined by the CSSTF, of a bus passenger drop-off from Main Street to Temple Street. Motion passed 7-0.
2. **Cruise Ship Fees** – *Recommendations of the CSSTF and Harbor Committee on fees and charges for cruise ships.* – Following a PowerPoint presentation of proposed passenger fee, and suggested allocation of the proposed revenue, Mr. Paradis, with second by Ms. Schloss, moved to implement the Cruise Ship Fees as recommended by the Cruise Ship Study Task Force in FY10 and to direct staff to communicate this change to the cruise ship industry as soon as practical. Further, to direct staff to develop a mechanism to ensure that revenue funds from these fees are dedicated, in perpetuity to items contained in a Cruise Operations Annual Budget similar to the one submitted by the CSSTF. Motion passed 7-0.
- I. **Cruise Ships** – *Report of Councilor Paradis and Planning Director Anne Krieg on the recently attended Cruise Symposium in Portland.* – Councilor Paradis reported their attendance was a great resource to network with other cruise ship municipalities; and to work as a partnership with the industry. In addition to Planning Director Anne Krieg, Chamber CEO Chris Fogg and Amy Powers also attended, and were a great asset in networking Bar Harbor with others.
- J. **Town Charter** – *Request of Councilors Eveland and Paradis for discussion of the possibility of asking voters if they wish to create a Charter Commission.* – Following discussion, Mr. Paradis, with second by Ms. Schloss, moved to direct staff to prepare a Council Order appropriate for placing the creation of a Charter Commission on the November ballot and to schedule consideration of the draft Order for the August 5 Council meeting. Motion passed 5-2 (Nay: Mr. Jordan, Mr. Garland).
- K. **Shore Access** – *Request of Councilor Paradis to have the Town crew clear the rights of way for Town Landing Road and Clark Cove Road.* – Mr. Paradis, with second by Mr. Garland, moved to direct the Town Manager to have the brush cleared from the rights of way for Town Landing Road and Clark Cove Road and further, to check into the cost of various sign systems in time for the FY10 budget preparation for these two rights of way. Motion passed 7-0.
- L. **Vacation Rentals Ordinance** – *Request of Councilor Paradis to discuss the possibility of a staff report on the cost and operational aspects of Vacation Rental Ordinance implementation.* – Mr. Paradis, with second by Mr. Veilleux, moved to direct staff to report to Council on the cost and opera-

tional aspects of Vacation Rental Ordinance implementation within the next three months. Motion passed 7-0.

M. Council Goals 2009 – *Discussion of dates and other arrangements for annual goal setting.* - Mr. Paradis, with second by Mr. Veilleux, moved to direct the Town Manager to communicate to Pam Plumb that we wish to engage her services for Council Goal setting on September 10, 2008. Motion passed 6-1 (Nay: Mr. Garland).

N. Ethics Training – *Discussion of arrangements for annual ethics training.* – Mr. Paradis, with second by Mr. Jordan, moved to direct the Town Manager to develop and conduct Ethics Ordinance training for all those subject to the ordinance and conduct this training in the fall of each year. Motion passed 7-0.

O. School Reorganization – *Status report by Council's representative to the Reorganization Planning Committee, Councilor Bob Garland.* – Councilor Garland reported that Trenton unanimously voted to join Mount Desert Island RPC and will participate fully in the development. The committee is still waiting to hear from the Department of Education. The next RPC meeting is July 23rd. The draft plan is on the school's website.

P. Treasurer's Warrant – *Request of Treasurer to authorize paid bills.* – Mr. Paradis, with second by Mr. Veilleux, moved to sign the Treasurer's Warrant for paid bills. Motion passed 7-0.

VII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

Mr. Jordan inquired if there were any plans to study or project the cost of a sewer treatment plant in the Town Hill area. Town Manager Dana Reed stated that it could be done and suggested that it be taken up in the Comprehensive Plan discussion of the Town Hill growth management plan.

Secondly, he requested that the bond issued on the municipal building renovations be put on hold, and used to implement energy saving costs. He would like a discussion on the topic.

Mr. Veilleux suggested review of the attendance policy on the Town boards and provided what is expected of each member. The Town Manager advised that the committee application form included a statement indicating that the applicant would attend at least 75% of the meetings.

He noted that sidewalk art and signage is now popping up on the Town's sidewalks on more than one street. The art is colored chalked that is washed away and re-done daily. It's not only advertising but used as signage, and felt it is in poor taste.

Town Manager Dana Reed reported that staff has discussed this issue and how it should be handled, and would like to bring it to Council next meeting for discussion.

Mr. Garland expressed Town Hill residents' frustration with the lack of action on improvements to the intersection of Route 102 and Knox and Crooked Road.

Their level of restlessness may result in taking matters into their own hands, by placing jersey barriers to form a defined path of travel; and painting their own crosswalk in chalk.

VIII. MATTERS FOR POSSIBLE EXECUTIVE SESSION:

A. Hadley Point – *Consideration of the acquisition or disposal of real property or rights therein. (To be held in executive session as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town.)* – Mr. Jordan, with second by Mr. Paradis, moved to go into executive session, at 10:00 p.m., as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town. Motion passed 7-0. Following a break, Council went into executive session at 10:09 p.m. Council came out of executive session at 10:19 p.m.

IX. ADJOURNMENT - Mr. Paradis, with second by Mr. Veilleux, moved to adjourn at 10:22 p.m. Motion passed 7-0.

Paul Paradis, Secretary